

Buying a property in France



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French property laws, and the procedures for buying and selling residential property, differ significantly to those of the UK. If you are considering buying a second house in France or a property for permanent relocation, it is important to understand the differences and the impact they are likely to have, not only at the time of purchase, but also the future implications. We outline briefly some of the key factors buyers must consider pre- and post-purchase.

Contracts

A legally binding contract is made once the preliminary contract (*promesse* or *compromis de vente*) is signed by both parties, subject to any conditions precedent and to a seven day statutory “cooling-off” period for the buyer. Buyers should note that if you withdraw from the purchase after this time you may forfeit your deposit.

Deposit

The buyer is required, as part of the preliminary contract, to pay a deposit of, usually, 10% of the purchase price. The deposit is held either by the estate agent or by the notary acting for the seller; and must be in place with signature of the contract.

Survey

If a structural survey is to be undertaken, it should be done before the preliminary contract is signed. As is the case in the UK, a private seller gives no warranties as to the condition of the property.

Completion

A sale is generally completed within one to three months after signing the preliminary contract. During this time, property title and local searches and enquiries are undertaken by the notary. Once finalised, the deed of sale (*acte de vente*) is signed by the parties and the balance of the purchase price is paid to the seller.

Form of Ownership

The buyer of French property can be an individual or a company. The company can be either French or foreign. The most common company formed to own French property is the *société civile immobilière* (“SCI”).

The use of a French or UK company by a UK resident buyer to own the property will provide solutions to certain French inheritance issues.

Notary

In France, the notary (*notaire*) has a conveyancing monopoly. It is common for one notary to act for both the seller and the buyer.

Transaction Charges

The amount payable by the buyer to cover stamp duty and notarial fees on the purchase is roughly 6% to 7% of the purchase price.

The sale of a new property or the first sale within five years of build is subject to VAT at 19.6%, plus 1% notarial fees.

If the property is bought with a mortgage loan, there will be additional stamp duty and fees payable based on the loan amount.

Wills and Succession

In France, if you own immovable property (buildings and land), this must pass to your children or parents (“forced heirs”); you may only leave the “non-reserved” portion freely by will.

Buyers should not assume UK wills outlining what is to happen with French property will be recognised and/or enforced in France.

Joint purchasers can buy with a “*clause tontine*” (tontine clause), so that when one party dies, their share passes automatically to the other without a will; however tax or other disadvantages must be considered.

Where there are children in the marriage, the surviving spouse may choose between a life interest (*usufruit*) over the whole of the deceased’s share in the property, or a quarter share absolutely.

Matrimonial Regimes

Foreign married couples buying property in France can take advantage of their marital status to mitigate inheritance tax liability and avoid forced heirship rules in some circumstances, by choosing to adopt a community of property matrimonial regime.

Tax

There are various French taxes which a property buyer needs to be aware of:

Taxe foncière

The annual local property tax, based on the rateable value, payable each year by the registered owner as at 1 January. Upon sale, the tax is generally apportioned pro rata between buyer and seller.

Taxe d'habitation

The annual local property tax, payable by the occupier of the property on 1 January.

VAT

VAT may arise on the purchase of properties built within five years of the present sale.

Wealth tax (*Impôt de Solidarité sur la Fortune*)

An annual wealth tax applies to assets owned in France (including property) worth more than 790,000 Euros (net of outstanding loans), subject to certain exemptions and reliefs.

3% property tax

Companies owning property in France are liable to an annual tax equal to 3% of the market value of such property. French companies are generally exempt, as are UK companies by virtue of a tax treaty with France.

Capital gains tax (*taxe sur la plus-value*)

On the sale of property, any capital gain made is taxable in France. French residents are entitled to a main residence exemption, but non-residents may not claim this exemption. The applicable tax rate today is 16% for French and European Union residents, plus an extra "social tax" of 12% for French residents, but in other cases and in the absence of contrary international tax agreements, the rate will be 33%. Allowance is given for the length of ownership where this exceeds five years.

Income/corporation tax

If the property is used for letting purposes, profits arising from the rental of the property will generally be taxable in France.

Inheritance tax (*droit de succession*)

French immovable property (land and buildings) passes on death in accordance with French inheritance law, irrespective of the domicile of the deceased. French inheritance tax is calculated based on the value of the property at the date of death and the relationship of the beneficiary to the deceased, with children paying the lowest rates and non-relations paying the highest after allowances and reliefs.

If you require assistance selling or purchasing a property in France or advice in relation to French inheritance law, wills or setting up French companies Ince & Co's team of specialist lawyers are able to advise.

For further information, please contact:

Andrew Charlier (andrew.charlier@incelaw.com) in our Paris office

Albert Levy (albert.levy@incelaw.com) in our London office

or your usual Ince contact.

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Dubai	Hamburg	Hong Kong	Le Havre	London	Paris	Piraeus	Shanghai	Singapore
T:+971 4 3598982	T:+49 40 38 0860	T:+852 2877 3221	T:+33 2 35 22 18 88	T:+44 20 7481 0010	T:+33 1 53 76 91 00	T:+30 210 4292543	T:+86 21 6157 1212	T:+65 6538 6660
F:+971 4 3590023	F:+49 40 38 086100	F:+852 2877 2633	F:+33 2 35 22 18 80	F:+44 20 7481 4968	F:+33 1 53 76 91 26	F:+30 210 4293318	F:+86 21 6170 3922	F:+65 6538 6122

E: firstname.lastname@incelaw.com

24 Hour International Emergency Response T +44 20 7283 6999

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